

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing the title of the Act and Sections 1, 1.1,
6 2, 3, and 3.1 as follows:

7 (430 ILCS 65/Act title)

8 An Act relating to the acquisition, possession and transfer
9 of firearms, ~~and~~ firearm ammunition, stun guns, and tasers, to
10 provide a penalty for the violation thereof and to make an
11 appropriation in connection therewith.

12 (430 ILCS 65/1) (from Ch. 38, par. 83-1)

13 Sec. 1. It is hereby declared as a matter of legislative
14 determination that in order to promote and protect the health,
15 safety and welfare of the public, it is necessary and in the
16 public interest to provide a system of identifying persons who
17 are not qualified to acquire or possess firearms, ~~and~~ firearm
18 ammunition, stun guns, and tasers within the State of Illinois
19 by the establishment of a system of Firearm Owner's
20 Identification Cards, thereby establishing a practical and
21 workable system by which law enforcement authorities will be
22 afforded an opportunity to identify those persons who are
23 prohibited by Section 24--3.1 of the "Criminal Code of 1961",
24 as amended, from acquiring or possessing firearms and firearm
25 ammunition and who are prohibited by this Act from acquiring
26 stun guns and tasers.

27 (Source: Laws 1967, p. 2600.)

28 (430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

29 Sec. 1.1. For purposes of this Act:

30 "Counterfeit" means to copy or imitate, without legal

1 authority, with intent to deceive.

2 "Firearm" means any device, by whatever name known, which
3 is designed to expel a projectile or projectiles by the action
4 of an explosion, expansion of gas or escape of gas; excluding,
5 however:

6 (1) any pneumatic gun, spring gun, paint ball gun or
7 B-B gun which either expels a single globular projectile
8 not exceeding .18 inch in diameter and which has a maximum
9 muzzle velocity of less than 700 feet per second or
10 breakable paint balls containing washable marking colors;

11 (2) any device used exclusively for signalling or
12 safety and required or recommended by the United States
13 Coast Guard or the Interstate Commerce Commission;

14 (3) any device used exclusively for the firing of stud
15 cartridges, explosive rivets or similar industrial
16 ammunition; and

17 (4) an antique firearm (other than a machine-gun)
18 which, although designed as a weapon, the Department of
19 State Police finds by reason of the date of its
20 manufacture, value, design, and other characteristics is
21 primarily a collector's item and is not likely to be used
22 as a weapon.

23 "Firearm ammunition" means any self-contained cartridge or
24 shotgun shell, by whatever name known, which is designed to be
25 used or adaptable to use in a firearm; excluding, however:

26 (1) any ammunition exclusively designed for use with a
27 device used exclusively for signalling or safety and
28 required or recommended by the United States Coast Guard or
29 the Interstate Commerce Commission; and

30 (2) any ammunition designed exclusively for use with a
31 stud or rivet driver or other similar industrial
32 ammunition.

33 "Stun gun or taser" has the meaning ascribed to it in
34 Section 24-1 of the Criminal Code of 1961.

35 (Source: P.A. 91-357, eff. 7-29-99; 92-414, eff. 1-1-02.)

1 (430 ILCS 65/2) (from Ch. 38, par. 83-2)

2 Sec. 2. Firearm Owner's Identification Card required;
3 exceptions.

4 (a) (1) No person may acquire or possess any firearm, stun
5 gun, or taser within this State without having in his or
6 her possession a Firearm Owner's Identification Card
7 previously issued in his or her name by the Department of
8 State Police under the provisions of this Act. A person
9 acquiring or possessing a stun gun or taser must present to
10 the transferor of the stun gun or taser such proof as
11 required by the Department of State Police that he or she
12 has completed a course of instruction of at least 4 hours
13 in the use of a stun gun or taser approved by the
14 Department of State Police.

15 (2) No person may acquire or possess firearm ammunition
16 within this State without having in his or her possession a
17 Firearm Owner's Identification Card previously issued in
18 his or her name by the Department of State Police under the
19 provisions of this Act.

20 (b) The provisions of this Section regarding the possession
21 of firearms, ~~and~~ firearm ammunition, stun guns, and tasers do
22 not apply to:

23 (1) United States Marshals, while engaged in the
24 operation of their official duties;

25 (2) Members of the Armed Forces of the United States or
26 the National Guard, while engaged in the operation of their
27 official duties;

28 (3) Federal officials required to carry firearms,
29 while engaged in the operation of their official duties;

30 (4) Members of bona fide veterans organizations which
31 receive firearms directly from the armed forces of the
32 United States, while using the firearms for ceremonial
33 purposes with blank ammunition;

34 (5) Nonresident hunters during hunting season, with
35 valid nonresident hunting licenses and while in an area
36 where hunting is permitted; however, at all other times and

1 in all other places these persons must have their firearms
2 unloaded and enclosed in a case;

3 (6) Those hunters exempt from obtaining a hunting
4 license who are required to submit their Firearm Owner's
5 Identification Card when hunting on Department of Natural
6 Resources owned or managed sites;

7 (7) Nonresidents while on a firing or shooting range
8 recognized by the Department of State Police; however,
9 these persons must at all other times and in all other
10 places have their firearms unloaded and enclosed in a case;

11 (8) Nonresidents while at a firearm showing or display
12 recognized by the Department of State Police; however, at
13 all other times and in all other places these persons must
14 have their firearms unloaded and enclosed in a case;

15 (9) Nonresidents whose firearms are unloaded and
16 enclosed in a case;

17 (10) Nonresidents who are currently licensed or
18 registered to possess a firearm in their resident state;

19 (11) Unemancipated minors while in the custody and
20 immediate control of their parent or legal guardian or
21 other person in loco parentis to the minor if the parent or
22 legal guardian or other person in loco parentis to the
23 minor has a currently valid Firearm Owner's Identification
24 Card;

25 (12) Color guards of bona fide veterans organizations
26 or members of bona fide American Legion bands while using
27 firearms for ceremonial purposes with blank ammunition;

28 (13) Nonresident hunters whose state of residence does
29 not require them to be licensed or registered to possess a
30 firearm and only during hunting season, with valid hunting
31 licenses, while accompanied by, and using a firearm owned
32 by, a person who possesses a valid Firearm Owner's
33 Identification Card and while in an area within a
34 commercial club licensed under the Wildlife Code where
35 hunting is permitted and controlled, but in no instance
36 upon sites owned or managed by the Department of Natural

1 Resources;

2 (14) Resident hunters who are properly authorized to
3 hunt and, while accompanied by a person who possesses a
4 valid Firearm Owner's Identification Card, hunt in an area
5 within a commercial club licensed under the Wildlife Code
6 where hunting is permitted and controlled; and

7 (15) A person who is otherwise eligible to obtain a
8 Firearm Owner's Identification Card under this Act and is
9 under the direct supervision of a holder of a Firearm
10 Owner's Identification Card who is 21 years of age or older
11 while the person is on a firing or shooting range or is a
12 participant in a firearms safety and training course
13 recognized by a law enforcement agency or a national,
14 statewide shooting sports organization.

15 (c) The provisions of this Section regarding the
16 acquisition and possession of firearms, ~~and~~ and firearm
17 ammunition, stun guns, and tasers do not apply to law
18 enforcement officials of this or any other jurisdiction, while
19 engaged in the operation of their official duties.

20 (Source: P.A. 91-694, eff. 4-13-00; 92-839, eff. 8-22-02.)

21 (430 ILCS 65/3) (from Ch. 38, par. 83-3)

22 Sec. 3. (a) Except as provided in Section 3a, no person may
23 knowingly transfer, or cause to be transferred, any firearm, ~~or~~
24 ~~any~~ firearm ammunition, stun gun, or taser to any person within
25 this State unless the transferee with whom he deals displays a
26 currently valid Firearm Owner's Identification Card which has
27 previously been issued in his name by the Department of State
28 Police under the provisions of this Act. No person may
29 knowingly transfer, or cause to be transferred, any stun gun or
30 taser unless the transferee presents such proof to the
31 transferor as required by the Department of State Police that
32 the transferee has completed a course of instruction of at
33 least 4 hours in the use of a stun gun or taser approved by the
34 Department of State Police. In addition, all firearm, stun gun,
35 and taser transfers by federally licensed firearm dealers are

1 subject to Section 3.1.

2 (b) Any person within this State who transfers or causes to
3 be transferred any firearm, stun gun, or taser shall keep a
4 record of such transfer for a period of 10 years from the date
5 of transfer. Such record shall contain the date of the
6 transfer; the description, serial number or other information
7 identifying the firearm, stun gun, or taser if no serial number
8 is available; and, if the transfer was completed within this
9 State, the transferee's Firearm Owner's Identification Card
10 number. On demand of a peace officer such transferor shall
11 produce for inspection such record of transfer.

12 (c) The provisions of this Section regarding the transfer
13 of firearm ammunition shall not apply to those persons
14 specified in paragraph (b) of Section 2 of this Act.

15 (Source: P.A. 92-442, eff. 8-17-01.)

16 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

17 Sec. 3.1. Dial up system. The Department of State Police
18 shall provide a dial up telephone system which shall be used by
19 any federally licensed firearm dealer who is to transfer a
20 firearm, stun gun, or taser under the provisions of this Act.
21 The Department of State Police shall utilize existing
22 technology which allows the caller to be charged a fee
23 equivalent to the cost of providing this service but not to
24 exceed \$2. Fees collected by the Department of State Police
25 shall be deposited in the State Police Services Fund and used
26 to provide the service.

27 Upon receiving a request from a federally licensed firearm
28 dealer, the Department of State Police shall immediately
29 approve, or within the time period established by Section 24-3
30 of the Criminal Code of 1961 regarding the delivery of
31 firearms, stun guns, and tasers notify the inquiring dealer of
32 any objection that would disqualify the transferee from
33 acquiring or possessing a firearm, stun gun, or taser. In
34 conducting the inquiry, the Department of State Police shall
35 initiate and complete an automated search of its criminal

1 history record information files and those of the Federal
2 Bureau of Investigation, including the National Instant
3 Criminal Background Check System, and of the files of the
4 Department of Human Services relating to mental health and
5 developmental disabilities to obtain any felony conviction or
6 patient hospitalization information which would disqualify a
7 person from obtaining or require revocation of a currently
8 valid Firearm Owner's Identification Card.

9 The Department of State Police must act as the Illinois
10 Point of Contact for the National Instant Criminal Background
11 Check System.

12 The Department of State Police shall promulgate rules to
13 implement this system.

14 (Source: P.A. 91-399, eff. 7-30-99.)

15 Section 10. The Criminal Code of 1961 is amended by
16 changing Section 24-3 and by adding Article 33G as follows:

17 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

18 Sec. 24-3. Unlawful Sale of Firearms.

19 (A) A person commits the offense of unlawful sale of
20 firearms when he or she knowingly does any of the following:

21 (a) Sells or gives any firearm of a size which may be
22 concealed upon the person to any person under 18 years of
23 age.

24 (b) Sells or gives any firearm to a person under 21
25 years of age who has been convicted of a misdemeanor other
26 than a traffic offense or adjudged delinquent.

27 (c) Sells or gives any firearm to any narcotic addict.

28 (d) Sells or gives any firearm to any person who has
29 been convicted of a felony under the laws of this or any
30 other jurisdiction.

31 (e) Sells or gives any firearm to any person who has
32 been a patient in a mental hospital within the past 5
33 years.

34 (f) Sells or gives any firearms to any person who is

1 mentally retarded.

2 (g) Delivers any firearm of a size which may be
3 concealed upon the person, incidental to a sale, without
4 withholding delivery of such firearm for at least 72 hours
5 after application for its purchase has been made, or
6 delivers any rifle, shotgun, ~~or~~ other long gun, stun gun,
7 or taser incidental to a sale, without withholding delivery
8 of such rifle, shotgun, ~~or~~ other long gun, stun gun, or
9 taser for at least 24 hours after application for its
10 purchase has been made. However, this paragraph (g) does
11 not apply to: (1) the sale of a firearm, stun gun, or taser
12 to a law enforcement officer or a person who desires to
13 purchase a firearm, stun gun, or taser for use in promoting
14 the public interest incident to his or her employment as a
15 bank guard, armed truck guard, or other similar employment;
16 (2) a mail order sale of a firearm, stun gun, or taser to a
17 nonresident of Illinois under which the firearm, stun gun,
18 or taser is mailed to a point outside the boundaries of
19 Illinois; (3) the sale of a firearm, stun gun, or taser to
20 a nonresident of Illinois while at a firearm, stun gun, or
21 taser showing or display recognized by the Illinois
22 Department of State Police; or (4) the sale of a firearm,
23 stun gun, or taser to a dealer licensed as a federal
24 firearms dealer under Section 923 of the federal Gun
25 Control Act of 1968 (18 U.S.C. 923).

26 (h) While holding any license as a dealer, importer,
27 manufacturer or pawnbroker under the federal Gun Control
28 Act of 1968, manufactures, sells or delivers to any
29 unlicensed person a handgun having a barrel, slide, frame
30 or receiver which is a die casting of zinc alloy or any
31 other nonhomogeneous metal which will melt or deform at a
32 temperature of less than 800 degrees Fahrenheit. For
33 purposes of this paragraph, (1) "firearm" is defined as in
34 the Firearm Owners Identification Card Act; and (2)
35 "handgun" is defined as a firearm designed to be held and
36 fired by the use of a single hand, and includes a

1 combination of parts from which such a firearm can be
2 assembled.

3 (i) Sells or gives a firearm of any size to any person
4 under 18 years of age who does not possess a valid Firearm
5 Owner's Identification Card.

6 (j) Sells or gives a firearm while engaged in the
7 business of selling firearms at wholesale or retail without
8 being licensed as a federal firearms dealer under Section
9 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
10 In this paragraph (j):

11 A person "engaged in the business" means a person who
12 devotes time, attention, and labor to engaging in the
13 activity as a regular course of trade or business with the
14 principal objective of livelihood and profit, but does not
15 include a person who makes occasional repairs of firearms
16 or who occasionally fits special barrels, stocks, or
17 trigger mechanisms to firearms.

18 "With the principal objective of livelihood and
19 profit" means that the intent underlying the sale or
20 disposition of firearms is predominantly one of obtaining
21 livelihood and pecuniary gain, as opposed to other intents,
22 such as improving or liquidating a personal firearms
23 collection; however, proof of profit shall not be required
24 as to a person who engages in the regular and repetitive
25 purchase and disposition of firearms for criminal purposes
26 or terrorism.

27 (k) Sells or transfers ownership of a firearm to a
28 person who does not display to the seller or transferor of
29 the firearm a currently valid Firearm Owner's
30 Identification Card that has previously been issued in the
31 transferee's name by the Department of State Police under
32 the provisions of the Firearm Owners Identification Card
33 Act. This paragraph (k) does not apply to the transfer of a
34 firearm to a person who is exempt from the requirement of
35 possessing a Firearm Owner's Identification Card under
36 Section 2 of the Firearm Owners Identification Card Act.

1 For the purposes of this Section, a currently valid Firearm
2 Owner's Identification Card means (i) a Firearm Owner's
3 Identification Card that has not expired or (ii) if the
4 transferor is licensed as a federal firearms dealer under
5 Section 923 of the federal Gun Control Act of 1968 (18
6 U.S.C. 923), an approval number issued in accordance with
7 Section 3.1 of the Firearm Owners Identification Card Act
8 shall be proof that the Firearm Owner's Identification Card
9 was valid.

10 (B) Paragraph (h) of subsection (A) does not include
11 firearms sold within 6 months after enactment of Public Act
12 78-355 (approved August 21, 1973, effective October 1, 1973),
13 nor is any firearm legally owned or possessed by any citizen or
14 purchased by any citizen within 6 months after the enactment of
15 Public Act 78-355 subject to confiscation or seizure under the
16 provisions of that Public Act. Nothing in Public Act 78-355
17 shall be construed to prohibit the gift or trade of any firearm
18 if that firearm was legally held or acquired within 6 months
19 after the enactment of that Public Act.

20 (C) Sentence.

21 (1) Any person convicted of unlawful sale of firearms
22 in violation of any of paragraphs (c) through (h) of
23 subsection (A) commits a Class 4 felony.

24 (2) Any person convicted of unlawful sale of firearms
25 in violation of paragraph (b) or (i) of subsection (A)
26 commits a Class 3 felony.

27 (3) Any person convicted of unlawful sale of firearms
28 in violation of paragraph (a) of subsection (A) commits a
29 Class 2 felony.

30 (4) Any person convicted of unlawful sale of firearms
31 in violation of paragraph (a), (b), or (i) of subsection
32 (A) in any school, on the real property comprising a
33 school, within 1,000 feet of the real property comprising a
34 school, at a school related activity, or on or within 1,000
35 feet of any conveyance owned, leased, or contracted by a
36 school or school district to transport students to or from

1 school or a school related activity, regardless of the time
2 of day or time of year at which the offense was committed,
3 commits a Class 1 felony. Any person convicted of a second
4 or subsequent violation of unlawful sale of firearms in
5 violation of paragraph (a), (b), or (i) of subsection (A)
6 in any school, on the real property comprising a school,
7 within 1,000 feet of the real property comprising a school,
8 at a school related activity, or on or within 1,000 feet of
9 any conveyance owned, leased, or contracted by a school or
10 school district to transport students to or from school or
11 a school related activity, regardless of the time of day or
12 time of year at which the offense was committed, commits a
13 Class 1 felony for which the sentence shall be a term of
14 imprisonment of no less than 5 years and no more than 15
15 years.

16 (5) Any person convicted of unlawful sale of firearms
17 in violation of paragraph (a) or (i) of subsection (A) in
18 residential property owned, operated, or managed by a
19 public housing agency or leased by a public housing agency
20 as part of a scattered site or mixed-income development, in
21 a public park, in a courthouse, on residential property
22 owned, operated, or managed by a public housing agency or
23 leased by a public housing agency as part of a scattered
24 site or mixed-income development, on the real property
25 comprising any public park, on the real property comprising
26 any courthouse, or on any public way within 1,000 feet of
27 the real property comprising any public park, courthouse,
28 or residential property owned, operated, or managed by a
29 public housing agency or leased by a public housing agency
30 as part of a scattered site or mixed-income development
31 commits a Class 2 felony.

32 (6) Any person convicted of unlawful sale of firearms
33 in violation of paragraph (j) of subsection (A) commits a
34 Class A misdemeanor. A second or subsequent violation is a
35 Class 4 felony.

36 (7) Any person convicted of unlawful sale of firearms

1 in violation of paragraph (k) of subsection (A) commits a
2 Class 4 felony. A third or subsequent conviction for a
3 violation of paragraph (k) of subsection (A) is a Class 1
4 felony.

5 (D) For purposes of this Section:

6 "School" means a public or private elementary or secondary
7 school, community college, college, or university.

8 "School related activity" means any sporting, social,
9 academic, or other activity for which students' attendance or
10 participation is sponsored, organized, or funded in whole or in
11 part by a school or school district.

12 (E) A prosecution for a violation of paragraph (k) of
13 subsection (A) of this Section may be commenced within 6 years
14 after the commission of the offense. A prosecution for a
15 violation of this Section other than paragraph (g) of
16 subsection (A) of this Section may be commenced within 5 years
17 after the commission of the offense defined in the particular
18 paragraph.

19 (Source: P.A. 93-162, eff. 7-10-03; 93-906, eff. 8-11-04.)

20 (720 ILCS 5/Art. 33G heading new)

21 ARTICLE 33G. COMMISSION OF OFFENSE WHILE ARMED WITH A STUN GUN
22 OR TASER

23 (720 ILCS 5/33G-5 new)

24 Sec. 33G-5. Stun gun or taser defined. In this Article,
25 "stun gun or taser" has the meaning ascribed to it in Section
26 24-1 of this Code.

27 (720 ILCS 5/33G-10 new)

28 Sec. 33G-10. Commission of offense while armed with a stun
29 gun or taser.

30 (a) A person who commits a criminal offense while armed
31 with a stun gun or taser shall be sentenced for an offense that
32 is one class higher than the offense committed while unarmed.
33 If the offense committed while armed with a stun gun or taser

1 is either a Class X felony or first degree murder for which the
2 death penalty is not imposed, then the defendant shall be
3 sentenced to an extended term sentence for that offense.

4 (b) This Section does not apply if the elements of the
5 offense include the use of a stun gun or taser.